



Northampton License Commission Minutes of April 1, 2009

*Commissioners: Brad Shimel, Chair,
William Rosen, Andrew Shelffo*

Commission Chairman Brad Shimel opened the meeting at 4:00 P.M., in City Council Chambers, 212 Main Street, Northampton, on the following:

1. APPLICATION FOR TRANSFER OF LICENSE

Paul Milani and Christine Buchholz d/b/a Fresh Pasta Co.

TO: Liquid Edge, Inc. d/b/a VIVA Fresh Pasta

249 Main Street, Northampton, MA

No Changes in Manager, Assets or Location

Mr. Paul Milani, owner, was present. His business has been in Northampton for over 24 years now.

Commissioner Shimel moved approval of the application for Transfer of License; Commissioner Shelffo seconded. The vote passed unanimously (3-0).

2. APPLICATION FOR TRANSFER OF LICENSE, CHANGE OF MANAGER

Prior Name: 261 King Street, Inc. d/b/a Hunan Gourmet

Transfer to: Y&B Realty, Inc.

Proposed Manager: Teh-Shu Sun

Attorney Etheredge, representing Teh-Shu Sun, was present. Mr. Sun was also present. Attorney Etheredge stated that it was hoped to have a new tenant by now, but there is none. Mr. Sun will apply for the transfer of license back to his name from Chin F. Wang Lin, former license holder and manager of Hunan Gourmet. Mr. Sun hopes to have a new tenant soon, and will then apply to transfer the License to that new owner.

Commissioner Rosen moved approval of the application for Transfer of License, Change of Manager; Commissioner Shelffo seconded. The vote passed unanimously (3-0).

3. APPLICATION FOR SHORT TERM WINE & MALT LIQUOR LICENSE

Jackson Street Elementary School PTO

Event to be held at Northampton Center for the Arts, 17 New South Street,
Northampton

DATE: May 9, 2009

TIME: 6:00 PM – 10:00 PM

EVENT: "Green Gala" evening presented by the Jackson Street School PTO will include a silent auction, dessert table, Wine and Malt refreshments, and DJ

"We respectfully ask that the \$60.00 fee be waived, as this is an event to benefit a city school"

Ann Thomas, of the Jackson Street Elementary School PTO, was present.

Commissioner Rosen moved approval, contingent upon insurance and ServSafe information being provided, with the fee waived, of the Short Term Wine & Malt Liquor License; Commissioner Shimel seconded. The vote passed unanimously (3-0).

4. APPLICATION FOR NEW AUTOMATIC AMUSEMENT DEVICE

Pine Grove Golf Club

254 Old Wilson Road, Florence, MA 01062

Type/Description of Machine: 1 Device ---Multi (12 different) Video
Amusement Games in one program- Counter top model

Gil Verrillo was present.

Commissioner Shimel moved approval of the Automatic Amusement Device license; Commissioner Rosen seconded. The vote passed unanimously (3-0).

5. APPLICATION FOR SHORT TERM WINE & MALT LIQUOR LICENSE

The Trustees of Smith College d/b/a Smith College Dining Services

30 Belmont Ave, Northampton, MA

Contact: Kathleen M. Zieja, Director Dining Services

DATE: April 3, 2009

TIME: 8:30 pm – 11:00 pm

EVENT: Student party in the outside in the quad located off Paradise Road.

Smith College holds License #70 and License #12 – this application is outside those premises

This application was withdrawn on the morning of April 1, 2009.

6. APPLICATION FOR NEW COMMON VICTUALLER LICENSE

Mosaic Café

Owner: Abid Assab

78 Masonic Street, Northampton, MA

Description of Premises: One room on first floor with seating and kitchen facilities. Storage in basement space. Entrance in front and exit in rear.

Mr. Abid Assab was present. He owns the building at 78 Masonic Street. He has contacted the Building Commissioner and Board of Health.

Commissioner Shimel moved approval of the Common Victualler license; Commissioner Shelffo seconded. The vote passed unanimously (3-0).

7. APPLICATION FOR SHORT TERM WINE & MALT LIQUOR LICENSE

Hampshire County Bar Association

15 Gothic Street, Northampton, MA

DATE: May 15, 2009

TIME: 4:00 pm – 9:00 pm

EVENT: Wine and Beer Tasting at Historic Northampton

No one was present for the application.

Commissioner Shelffo moved approval, contingent upon insurance and ServSafe information being provided, of the Short Term Wine & Malt liquor license; Commissioner Rosen seconded. The vote passed 2 Yes, 1 Abstention (Commissioner Shimel abstained).

8. APPLICATION FOR SHORT TERM WINE & MALT LIQUOR LICENSE

TWIST

DATE: MAY 1, 2009

TIME: 5:00 pm – 10:00 pm

EVENT: TWIST CRAFT FAIR at Northampton Center for the Arts, 17 New South Street, Northampton

Cory Barnes was present. He and his wife have organized this craft fair event. There will be crafts and vendors, and the serving area will include hand stamps of patrons over age 21.

Commissioner Rosen pointed out that the updated application now specifies that a for-profit must donate proceeds to a non-profit. Mr. Barnes stated that they would donate to the Northampton Center for the Arts.

Commissioner Shimel moved approval, contingent upon insurance and ServSafe information being provided, of the Short Term Wine & Malt liquor license; Commissioner Rosen seconded. The vote passed unanimously (3-0).

9. OUTSTANDING LICENSEES REQUESTED TO APPEAR BEFORE THE COMMISSION:

A New Look, Inc. d/b/a Look Restaurant
Good & Healthy d/b/a Bueno Y Sano
Jamie Corp d/b/a Silent Cal's Café
Raymond Learned d/b/a Affordable Used Cars
Thomas R. Pease d/b/a 1812 Paint & Auto Body

As of the morning of April 1, 2009, all outstanding licenses have been paid at the Tax Collector's office.

10. APPROVAL OF MINUTES - March 4, 2009 and March 12, 2009

Commissioner Rosen moved approval of the minutes of March 4, 2009 and March 12, 2009; Commissioner Shelffo seconded. The vote passed unanimously (3-0).

11. NEW BUSINESS:

Commissioner Shimel addressed the noise complaint letters from two residents above Bistro 186. Also provided is a letter from the owner/manager of Bistro 186 regarding his efforts to address these complaints.

The Commission instructed the Clerk to write to the two residents and ask if they are satisfied with the efforts of the Bistro 186. If they are not, a public hearing should be held by the License Commission inviting all parties, including the landlord, to attend the hearing to resolve this situation.

Commissioner Shimel addressed attached memo from Police Chief Sienkiewicz.

The Commission instructed the Clerk to contact Police Chief Sienkiewicz to set up this meeting. The Commission also instructed the Clerk to post this meeting and send notice to all liquor license holders. This meeting is informational only, and no decisions will be made at this meeting.

Mr. Shelton asked the Commission for advice: He bought a \$100 gift certificate from Hunan Gourmet approximately 3 days before they suddenly closed. The Commission advised him to contact Attorney Etheredge, who is representing the business.

Mr. Dave Clark and his partner are considering opening a restaurant in Northampton and inquired regarding liquor licenses and other licenses to do so. The Commission explained that there are Seasonal Wine & Malt licenses available to apply for; it is possible to convert to annual. The Clerk specified that the ABCC considers the conversion a separate transaction. The Commission discussed the intent of the legislation. Commissioner Shimel stated that it is possible to apply for the seasonal license, and conversion, at the same meeting. The residents were invited to stop in at the License Commission office to obtain all necessary forms and further information.

ADJOURN

Commissioner Shimel moved to adjourn at 5:00 PM; Commissioner Rosen seconded. The vote passed unanimously (3-0).

NEXT MEETING May 6, 2009



City of Northampton, Massachusetts
License Commission
City Hall, 210 Main Street
Northampton, MA 01060
(413) 587-1210 Fax: (413) 587-1264

Brad A. Shimel, Chair
Mary L. Midura, Executive Secretary

April 6, 2009

Mark N. Pechak
184 Main Street, Apt. 2A
Northampton, MA 01060

Dear Mr. Pechak:

Your letter of complaint regarding noise disturbances at Bistro 186 was presented to the Northampton License Commission on April 1, 2009. A copy of your letter is enclosed.

Also enclosed is a copy of a letter the Commission received from Mr. Robert Lowney regarding your issue. The Commission would like to ask if you are now satisfied with the efforts of this owner to address your concerns. If you are satisfied, the Commission will take no further action at this time.

If you **are not satisfied** that the owner has addressed your concerns, please send a letter to this office at your convenience. The Commission may set a public hearing on this matter and request you, the landlord, and the owner of Bistro 186 to attend this meeting.

If you have any questions, please feel free to call me at 413-587-1210.

Sincerely,

Mary L. Midura
Executive Secretary

Enclosures

CC: Anthony Patillo, Northampton Building Commissioner
Chief Russell Sienkiewicz, Northampton Police Department
Mr. Robert Lowney, Bistro 186, 186 Main Street, Northampton

Dear Mrs. Midura,

This is my complaint letter in regard to the noise coming from Bistro 186. Shortly after the Bistro started their musical venue nights the noise began on a consistent basis every wed-sat. Sometimes starting as early as 6 with drum warm ups and microphone checks, continuing with loudly amplified live music until around 11pm. There were constantly three to four players in bands playing amplified blues music live so loudly that my whole apartment rumbles and shakes the floor under me. The bass cuts right through our thin walls and has even knocked books and glasses off of shelves. Luckily since numerous calls to the cops and several letters to my landlord the Bistro has claimed to cut back, but the blues bands are still playing with hard hitting live drums all the time. I understand that the permit they had entitled them to small bands, comedians and acoustic acts but having concerts with loud electric guitars and amplified vocals with live drums does not fit into what they are permitted to do. I also discovered that it is actually just a weekday permit and it was confusing because they always play on Saturdays.

I'm graduating this spring and it is very stressful to have to plan around not being at my own home during the hours of the jams that are happening downstairs at the bistro. Both my roommate and I can barely hear the television yet alone try to get anything productive done with the ceaseless noise. This residential area above the Bistro where I live used to be offices. We have a communal bathroom, the floors are flimsy and the walls are very light, they stand no chance up against the loud amps and drums being played directly under them. There is definitely no peace in my home when the bistro has shows during the music venue hours and I believe something must be done or else I will have to move out of this apartment. Thank you very very much for all of your help thus far, and I appreciate your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark N. Pechak". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Mark N. Pechak



City of Northampton, Massachusetts
License Commission
City Hall, 210 Main Street
Northampton, MA 01060
(413) 587-1210 Fax: (413) 587-1264

Brad A. Shimel, Chair
Mary L. Midura, Executive Secretary

April 6, 2009

Jeffrey Murphy
184 Main Street, Apt. 2A
Northampton, MA 01060

Dear Mr. Murphy:

Your letter of complaint regarding noise disturbances at Bistro 186 was presented to the Northampton License Commission on April 1, 2009. A copy of your letter is enclosed.

Also enclosed is a copy of a letter the Commission received from Mr. Robert Lowney regarding your issue. The Commission would like to ask if you are now satisfied with the efforts of this owner to address your concerns. If you are satisfied, the Commission will take no further action at this time.

If you **are not satisfied** that the owner has addressed your concerns, please send a letter to this office at your convenience. The Commission may set a public hearing on this matter and request you, the landlord, and the owner of Bistro 186 to attend this meeting.

If you have any questions, please feel free to call me at 413-587-1210.

Sincerely,

Mary L. Midura
Executive Secretary

Enclosures

CC: Anthony Patillo, Northampton Building Commissioner
Chief Russell Sienkiewicz, Northampton Police Department
Mr. Robert Lowney, Bistro 186, 186 Main Street, Northampton

3/30/09

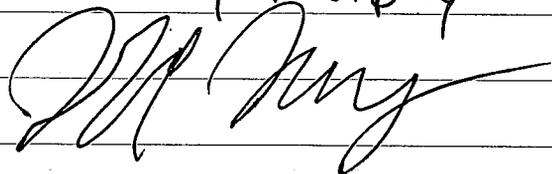
To whom it may concern,

My name is Jeffrey Murphy, a roommate of Mark Pechak, of 184 main st apt 2a which is directly above the Bistro 186.

I am writing because of the noise disturbances that have not gotten any better since complaints have been made.

It has gotten to the point where I work from 10 to 6 pm, then come home and am forced to leave from 8 to 11 pm because of the rumbling bass and full rock drumset. I have witnessed the license that the Bisto 186 holds, and is a weekday license, but there is musical activity from wednesday to saturday. I would greatly appreciate your consideration of revoking the Bistro 186's music license as this has become a true nuisance and is greatly reducing my quality of living in Northampton. Thank you for your time.

Jeffrey Murphy



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License Commission



Weekday Entertainment License

The License Commission only has authority to issue Weekday Entertainment (Monday through Saturday) Licenses to a liquor licensed premise. For a Weekday Entertainment License for a non liquor licensed premise, please contact the Mayor's Office at (413) 587-1249.

Weekday Entertainment licenses are issued on an annual basis and costs \$80.00 for 2009.

A Weekday Entertainment License is needed to conduct entertainment such as a DJ, karaoke and/or live bands.

[Weekday Entertainment License Application](#)

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City Hall, 210 Main Street, Northampton, MA 01060

Contact Us Directions Site Map
Website design by **gravity switch, inc.**

received
3/23/09 mm

March 21, 2009

Mary L. Midura
Executive Secretary
Northampton Licensing Commission
City Hall, 210 Main Street
Northampton, MA 01060

Dear Ms. Midura,

Thank you for your letter of February 11 and your subsequent letter of March 12, 2009.

You may be unaware that when I paid my 2009 Common Victualler License #113-09 and the 2009 Weekday Entertainment License #405-09 on February 11, 2009, that I specifically asked for the 2008 fees as well. The Tax Collector's office spent a great deal of time trying to find those licenses and they were not available to pay at that time. I was told that if they didn't exist in the office that I could not pay them at that time.

First and foremost I must apologize for what may appear to be a "cavalier" attitude towards your office and payment of your fees, and I apologize for not paying them sooner, but I have a rather personal story to tell. On December 2nd my best friend was brutally attacked and suffered horrific injuries. She lost her job and her housing, and I offered her a place to stay and took care of her, most nights and days, through January 7th.

On January 7th I found her unresponsive and not breathing, she was intubated in my home, and subsequently hospitalized and I found myself taking care of her for the month of January as well. Since that time, beginning in early February I have been fighting pneumonia, and also began my seasonal work as a tax preparer at Wallace Tax. Essentially for the last seven weeks I have been working 14 hours per day, whether it be at the restaurant or at Wallace Tax, seven days a week, fighting a rather uncomfortable chest infection, for which antibiotics only provided two or three days of relief.

In any event, I went back to the Tax Collector's office yesterday and paid the fees including the \$20.00 late fee per license and have attached copies of same.

With regards to a matter regarding our Weekday Entertainment License, I have had some trouble communicating with one of the tenants who has been discussing concerns about the volume of our music with his landlord. I took further action this week by interviewing the landlord in order to contact the tenant with regards to his specific concerns. The tenant refuses to speak to me by phone and insists that I communicate with him only by e-mail.

Last night we tried to speak to him personally in order to discuss the volume levels while we had entertainment, but he was playing for a "rock" or "heavy metal" band and was not home during the event.

We took electronic meter readings of the sound levels and have compiled the following decibel levels over a two hour period at several locations:

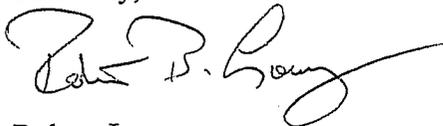
Street Level Noise	52-75 Decibels
Dining Room, No Music	65-79 Decibels
Dining Room, With Music	65-92 Decibels
Our Basement (under the music)	62-76 Decibels
2 nd Floor (Where the tenant lives)	52-57 Decibels (full dining room, no music)
2 nd Floor	50-62 Decibels (full dining room, with music)

Although there were a few peaks lasting for fractions of a second up to 92 decibels in the dining room, the average reading in the center of the dining room was the equivalent of standing on Main Street while a car passed by.

I have sent an email to the tenant requesting that he contact me directly so that I can measure the sound levels and get specifics regarding the nature of the problem as it happens so that we can eliminate the specific vibration or sound that is uncomfortable. In addition, effective immediately, we have discontinued "Open Mike" Night where visiting Northampton area artists play but where we have had less control over the type and levels of music. We are also now limiting the types of percussion instruments that we allow.

As a new Northampton business we appreciate your concerns and input regarding these matters. Both myself and Brian Faille, the manager, thank you for your help getting our licenses and for all of the work that you have done thus far!

Sincerely,



Robert Lowney



Brian Faille

Dear Mark,

I have had difficulty getting specific information regarding your discussions with the landlord, David Biddle. I did however, request a meeting with him last night and at least got your name and contact information.

When we applied for our entertainment license the board stressed that we must be sensitive to the needs of the tenants with regards to sound levels, and we remain committed to that promise.

Although you certainly may speak to the landlord regarding any issue that you have, I would appreciate it if you could contact me directly regarding the specifics of the sound concerns as they happen.

Last night we took sound level measurements, and I have included the following text from my letter to Mary Midura for your review:

“We took electronic meter readings of the sound levels and have compiled the following decibel levels over a two hour period at several locations:

Street Level Noise	52-75 Decibels
Dining Room, No Music	65-79 Decibels
Dining Room, With Music	65-92 Decibels
Our Basement (under the music)	62-76 Decibels
2nd Floor (Where the tenant lives)	52-57 Decibels (full dining room,
no music)	
2nd Floor	50-62 Decibels (full dining room,
with music)	

Although there were a few peaks lasting for fractions of a second up to 92 decibels in the dining room, the average reading in the center of the dining room was the equivalent of standing on Main Street while a car passed by.

I have sent an email to the tenant requesting that he contact me directly so that I can measure the sound levels and get specifics regarding the nature of the problem as it happens so that we can eliminate the specific vibration or sound that is uncomfortable. In addition, effective immediately, we have discontinued “Open Mike” Night where visiting Northampton area artists play but where we have had less control over the type and levels of music. We are also now limiting the types of percussion instruments that we allow.”

Unfortunately you weren't around last night so that we could see if our continued efforts to reduce the sound levels were satisfactory to you. I believe that the new sound levels noted above should solve the problem. I truly believe that we can accommodate any concerns that you have, but I can only solve that problem if we are both there to evaluate the sound problems as they occur..

Please let me know if you are willing to contact Brian Faille in the restaurant, and if I am not there, to call me on my cell phone at 413-387-5753 so that we can identify and fix the specific future concerns.

Thank you!

Bob Lowney

**Northampton Police Department
Office of the Chief**



Memo

To: Northampton License Commission
via Mary Midura

From: Chief Russell P. Sienkiewicz

A handwritten signature in black ink, appearing to be "R. Sienkiewicz", written over the "From:" line.

CC:

Date: 31 March 2009

Re: Tully's and Paradise City

I have pending investigations against Tully's and Paradise City, that I will be filing shortly.

As part of these complaints I have asked for a broader review of the history of these establishments, and particularly with Tully's, a record of an inordinate number of incidents linked to their operations.

As I have had staff prepare a rather sizeable packet of data, as well as researching proactive and preventative recommendations we would like to submit to the License Commission, would the Commission consider a special meeting in mid April, instead of waiting until the May meeting?

Our intent would be to present a set of operational regulations that would hopefully reduce the number of incidents, which would in turn lower the amount of personnel hours we commit monitoring crowds and responding to disturbances.

As you are aware the upcoming fiscal year's budget has proposed layoffs of twelve police officers, or a reduction by one-third the number of uniformed officers that would be on duty to deal with these problems. If the Commission can help us with these pre-emptive measures, we will be in a better position come the summer months.